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8
9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
10 IN AND FOR THE COUNTY OF COCHISE
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13 STATE OF ARIZONA,)
14 Plaintiff,) PLEA AGREEMENT
15 vs.) CR201900043
16) CR201900089
17 **DOUGLAS PACKER,**) CR201900090
18) CR201900091
19)
20 Defendant.)
21

22 The State of Arizona and the Defendant hereby agree to the following disposition of
23 this case:

24 PLEA: The Defendant shall plead guilty to:

25 COUNT 1 OF PLEA AGREEMENT

26 On or about January 4, 2019, **DOUGLAS PACKER** committed kidnapping by
27 knowingly restraining another person with intent to inflict death, injury or sexual offense
28 to victim, to wit: restrained D.K. with intent to inflict a sexual assault on her, in violation
29 of A.R.S. §§13-1304, 13-1301, 13-105, 13-701, 13-702, and 13-801, a class 2 felony and
30 amendment to Count 7 of the Indictment in CR201900043.

31 COUNT 2 OF PLEA AGREEMENT

32 On or about January 4, 2019, **DOUGLAS PACKER** committed unlawful sexual
33 conduct by, as an employee of the Cochise County Jail, intentionally or knowingly
34 engaged in any act of a sexual nature with an offender who was in the custody of the
35 Cochise County Jail, to wit: E.D., in violation of A.R.S. §§13-1419, 13-1401, 13-105, 13-
36 701, 13-702, and 13-801, a class 5 felony and amendment to Count 8 of the Indictment in
37 CR201900043.

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COUNT 3 OF PLEA AGREEMENT

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On or between October 10, 2014 to January 2015, **DOUGLAS PACKER** committed unlawful sexual conduct by, as an employee of the Cochise County Jail, intentionally or knowingly engaged in any act of a sexual nature with an offender who was in the custody of the Cochise County Jail, to wit: had a sexual encounter with M.M., in violation of A.R.S. §§13-1419, 13-1401, 13-105, 13-701, 13-702, and 13-801, a class 5 felony and Count 2 of the Indictment in CR201900089.

COUNT 4 OF THE PLEA AGREEMENT

On or between November 27th to 29th 2017, **DOUGLAS PACKER** committed unlawful sexual conduct by, as an employee of the Cochise County Jail, intentionally or knowingly engaged in any act of a sexual nature with an offender who was in the custody of the Cochise County Jail, to wit: S.P., in violation of A.R.S. §§13-1419, 13-1401, 13-105, 13-701, 13-702, and 13-801, a class 5 felony and Count 1 of the Indictment in CR201900090.

COUNT 5 OF THE PLEA AGREEMENT

On or about July 2018, **DOUGLAS PACKER** committed sexual abuse by intentionally or knowingly engaging in sexual contact with a person fifteen or more years of age without consent, to wit: touched N.C.'s genitals, in violation of A.R.S. §§13-1404, 13-1401, 13-105, 13-701, 13-702, and 13-801, a class 5 felony and Count 5 of the Indictment in CR201900090.

COUNT 6 OF THE PLEA AGREEMENT

On or between April 2018 to June 2018, **DOUGLAS PACKER** committed unlawful sexual conduct by, as an employee of the Cochise County Jail, intentionally or knowingly engaged in any act of a sexual nature with an offender who was in the custody of the Cochise County Jail, to wit: A.D., in violation of A.R.S. §§13-1419, 13-1401, 13-105, 13-701, 13-702, and 13-801, a class 5 felony and Count 4 of the Indictment in CR201900091.

As to Counts 1-6 Defendant admits an aggravating factor pursuant to A.R.S. §13-701.D.9 that the victims suffered emotional harm.

The provisions of A.R.S. § 13-704 do not apply or are not alleged in this case.

1. **SENTENCING RANGE:** The crime charged in Count 1 of this plea agreement has a presumptive term of imprisonment in the Department of

1 Corrections of 5 years; a minimum term of 4 years; 3 years if the Court makes
2 a finding of exceptional circumstances; and a maximum term of 10 years; 12.5
3 years if the Court makes a finding of exceptional circumstances. The
maximum fine that can be imposed is \$150,000 plus 83% surcharge.

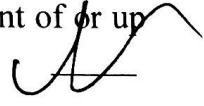
4 The crimes charged in Counts 2-6 of this plea agreement have a presumptive
5 term of imprisonment in the Department of Corrections of 1.5 years; a
6 minimum term of .75 year; .5 year if the Court makes a finding of exceptional
7 circumstances; and a maximum term of 2 years; 2.5 years if the Court makes a
finding of exceptional circumstances. The maximum fine that can be imposed
is \$150,000 plus 83% surcharge.

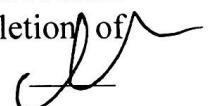
8 **2. PROBATION:** Probation IS NOT available as to Counts 1, 2, 4-6.
9 Probation IS available as to Count 3 of this plea agreement and may be up
10 to lifetime probation. Whether or not Defendant's sentence is suspended and
11 Defendant is placed on probation is within the sole discretion of the Court.
12 Unless otherwise stated within the Stipulation/Recommendations Regarding
13 Sentences section of this agreement, there is no agreement the State will
14 recommend or stipulate Defendant be granted probation. If granted probation.
15 Defendant can be sentenced up to one year in the County jail as a condition of
16 probation, and probation will be either standard supervision or intensive
17 probation supervision (IPS) unless otherwise stipulated by the parties within
18 this agreement. If granted probation, the terms and conditions thereof are
19 subject to modification at any time during the period of probation in the event
Defendant violates any written condition of his probation. Defendant agrees to
execute a Waiver of Extradition in connection with any probation revocation
proceedings required in the event that his violation of any term or condition of
probation, if probation is granted, results in the filing of a Petition to Revoke
such probation. . Defendant further agrees to reimburse any law enforcement
agency for the expense of bringing him back from any other State, County, or
20 Correctional Facility for any proceeding in connection with this case
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26 **3. COMMUNITY SUPERVISION:** If the Defendant is sentenced to prison the
27 Defendant must serve at least eighty-five percent (85%) of the sentence
28 imposed. The Defendant shall also be sentenced to serve a term of community
29 supervision equal to one-seventh of the prison term to be served following to
the actual period of imprisonment. If the Defendant fails to abide by the
30 conditions of community supervision, the Defendant can be required to serve
the remaining term of community supervision in prison.

31 **4. STATUTORY SENTENCING PROVISIONS:** Defendant shall register as
32 a sex offender pursuant to A.R.S. §13-3821, *et seq.* Defendant shall pay a
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\$250 assessment pursuant to A.R.S. §13-3821(Q). 

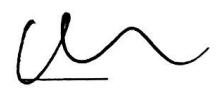
5. **RESTITUTION:** The Defendant agrees to pay restitution to all the victims named in the original indictment, even if they are not named within the specific charge to which the Defendant is pleading guilty. The Defendant understands he is jointly and severally liable for the entire restitution amount(s). The Defendant specifically agrees to make restitution to the victim(s) for losses suffered as a result of the course of conduct of which the Defendant may only be a part. The Defendant agrees to pay restitution in the total amount of or up to TBD capped at \$50,000. *restitution to be left open for 60 days after sentencing. TBD* 

6. **DEFERRED JAIL TIME:** If Defendant is sentenced to probation, Defendant shall be incarcerated in the Cochise County Jail for a period of thirty (30) days. This period of incarceration will be deferred during any and all periods of time during which Defendant is fully compliant with the terms and conditions of probation. Up to fourteen (14) days of this deferred incarceration may be imposed at any time or times during the term of probation if the Court concludes that Defendant violated any term or condition of probation. Any portion of this deferred incarceration not imposed during the term of probation shall be automatically vacated upon Defendant's successful completion of probation. 

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The Court will determine whether Defendant violated a term or condition of probation based upon a verified petition filed by the Cochise County Adult Probation Department. Defendant will be provided with a copy of any such petition, and will be provided an opportunity to be heard, before the deferred incarceration is imposed. The Defendant hereby waives any right he may have to be represented by an attorney when the Court decides whether to impose this deferred jail time. 

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Any violation of probation known to the assigned Adult Probation Officer at the time the deferred incarceration is imposed shall not later be alleged in any Petition to Revoke Probation. 

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This deferred incarceration is in addition to jail time served by Defendant prior to sentencing or imposed by the Court at the time of sentencing. 

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Defendant acknowledges and agrees that the hearing may be conducted by interactive audiovisual system. 

1 7. **STIPULATION/RECOMMENDATIONS REGARDING SENTENCE:** As
2 to Count 1, Defendant shall be sentenced to a partially aggravated
3 sentence of 7 years in the Department of Corrections. As to Counts 2, 4, 5,
4 and 6 Defendant shall be sentenced to maximum sentences of 2 years in the
5 Department of Corrections. All prison sentences will run consecutive to
6 each other for a total of 15 years. As to Count 3 Defendant shall be
7 sentenced to a lifetime probation tail. The Defendant shall be required to
8 register as a sex offender for life pursuant to A.R.S. §13-3821.

9 *No fine TBO*

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10 8. **DISMISSAL OF CHARGES:** The following charges are dismissed or, if not
11 yet filed, shall not be brought against the Defendant: Counts 1-6, 9, 10 of the
12 Indictment in CR201900043, Counts 1, 3-12 of the Indictment in
13 CR201900089, Counts 2-4, 6-13 of the Indictment in CR201900090, Counts
14 1-3 of the Indictment in CR201900091.

15 9. **PLEA DEADLINE:** This plea offer will automatically terminate unless the
16 plea agreement is entered on or before November 18, 2019.

17 *21 TBO*

GR

18 10. **PRE-SENTENCE INTERVIEW:** Defendant waives his right to remain silent
19 during the pre-sentence interview. Defendant will honestly answer all
20 questions from the probation officer during, including but not limited to
21 providing a "Defendant's Version" of the crime and surrounding circumstances.
22 Defendant's history of drug and alcohol use, and Defendant shall participate
23 fully in substance abuse or other screening and testing as requested by the
24 probation officer. The parties agree that if Defendant does not fully participate
25 in the pre-sentence interview as agreed herein, such failure undermines the
 Court's ability to assess Defendant's amenability to probation supervision, his
 potential danger to the community, and to determine what probation services
 are necessary to rehabilitate Defendant. For these reasons, the parties stipulate
 that if Defendant does not fully participate in the pre-sentence interview as
 agreed herein, Defendant shall be sentenced to a term of imprisonment
 notwithstanding any other provision of this Plea Agreement.

GR

26 11. **PRISON MANDATORY PLEA:** If this is a prison mandatory plea, pursuant
27 to Rule 7.2(c)(b), the Defendant will be taken into custody at the time of the
28 change of plea, whether or not the plea is accepted at that time.

GR

29 12. **WAIVER OF PROBABLE CAUSE DETERMINATION:** If the Defendant
30 is charged with a felony he hereby gives up his right to a preliminary hearing or
31 other probable cause determination on the charges to which he pleads. In the

1 event the Court rejects the plea, or the Defendant withdraws the plea, the
2 Defendant hereby gives up his right to a preliminary hearing or other probable
3 cause hearing. 

4 13. **POSSIBLE COLLATERAL CONSEQUENCE:** If you are not a citizen of
5 the United States, pleading guilty or no contest to a crime may affect your
6 immigration status. Admitting guilt may result in your deportation even if the
7 charge is later dismissed. Your plea or admission of guilt could result in your
8 deportation or removal, could prevent you from ever being able to get legal
9 status in the United States or could prevent you from becoming a United States
10 citizen. 

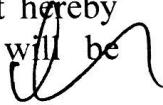
11 14. **AMENDMENT OF CHARGES:** This agreement serves to amend the
12 indictment or information to charge the offense to which the Defendant pleads
13 without the filing of any additional pleading. However, if the plea is rejected
14 by the Court or withdrawn by either party, or if the conviction is subsequently
15 overturned on appeal, the original charges and any charges that are dismissed
16 by reason of this plea agreement are automatically reinstated. 

17 15. **WAIVER OF DEFENSES, MOTIONS, ETC.:** Unless this plea is rejected by
18 the Court or withdrawn by either party, the Defendant hereby waives and gives
19 up any and all motions, defense objections, or requests which he had made or
20 raised, or could assert hereafter, to the Court's entry of judgment against him
and imposition of a sentence upon him consistent with this agreement. 

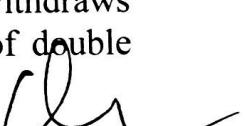
21 16. **FINDING OF AGGRAVATING OR MITIGATING CIRCUMSTANCE:**
22 By entering into this agreement the Defendant agrees that the Court may find
23 any fact used to impose sentence to be true by a preponderance of the evidence,
24 and that the Court is not bound by the Rules of Evidence in determining what
evidence to consider. 

25 17. **ACCEPTANCE/REJECTION/WITHDRAWAL OF PLEA:** The parties
agree that the Court shall accept this plea at the time of the Defendant's change
of plea. The State's participation in this plea agreement is conditioned upon the
Court's acceptance of the plea at the change of plea hearing. If, after accepting
the plea, the Court concludes that the agreement is inappropriate for any
reason, including but not limited to, an amendment or reduction of the original
charges, dismissal of charges, withdrawal of allegations pursuant to A.R.S. §§

1 13-704, 13-705, 13-708, 13-707.C, 13-901.03, 13-703, 13-703.E-J or 13-703,
2 the Court may reject the plea. Should the Court reject the plea, the Defendant
3 hereby waives all claims of double jeopardy and all original charges are
4 automatically reinstated. 

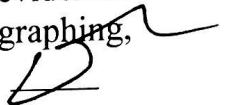
5 The parties agree that it is the Court's duty to impose sentence upon the
6 Defendant, and that any sentence stipulated to is not binding on the Court. If
7 the Court concludes that any of the plea agreement's provisions regarding the
8 sentence or the terms and conditions of probation are inappropriate, it can
9 reject the plea. If the court rejects the plea agreement provisions regarding
10 sentencing, both parties shall be given the opportunity to withdraw from this
11 agreement. However, if neither the State nor the Defendant elects to withdraw
12 from the agreement, then any sentence stipulated to is not binding upon the
13 Court, and the Court is bound only by the sentencing limits set forth in the
14 applicable statutes. Should the Court reject this agreement for any reason, or
15 the State or Defendant withdraw from the agreement, the Defendant hereby
16 waives all claims of double jeopardy and all original charges will be
17 automatically reinstated. 

18 The Defendant understands that by entering this plea, he may withdraw from
19 the plea only if the court finds that withdrawal is necessary to correct a
20 manifest injustice. Should the Defendant withdraw from the agreement, the
21 Defendant hereby waives all claims of double jeopardy and all original charges
22 are automatically reinstated. 

23 The Defendant agrees that should he be charged with or commit a new crime
24 after the entry of the plea, the State may withdraw from the agreement. Should
25 the Defendant be charged with or commit a new crime and the State withdraws
from the plea agreement, the Defendant hereby waives all claims of double
jeopardy and all original charges are automatically reinstated. 

26 This agreement is specifically conditioned upon the Defendant having no prior
27 felony conviction(s) and the State will not be bound by this agreement and may
28 withdraw the agreement if the Defendant has a prior felony conviction(s).
29 Should the State withdraw from the agreement, the Defendant hereby waives
30 all claims of double jeopardy and all original charges are automatically
31 reinstated. 

32 18. **DISPOSAL OF EVIDENCE:** The Defendant understands that by entering
33 into this plea agreement, he waives notice of disposition of evidence in the
34 possession of any law enforcement agency seized or otherwise obtained for use
35 in this case and any case dismissed according to the terms of this agreement.

1 The Defendant agrees that such evidence may be disposed of. The Defendant
2 further understands and agrees that in the event this case or any case dismissed
3 according to the terms of this agreement goes to trial the evidence may not be
4 available and the State will not be required to introduce such evidence.
Nothing in this agreement prohibits either party from photographing,
reproducing, describing, etc., evidence for future use, including trial. 

5 19. **FORFEITURE OF PROPERTY:** This plea agreement does not affect in any
6 way any action to forfeit the Defendant's property pursuant to A.R.S. §§13-
7 2314, 13-3413 or 32-1993, or under §13-4301 et. seq., including any action that
8 may be based on facts that gave rise to the indictment, whether such action is
9 presently pending or filed hereafter. 

10 WAIVER OF RIGHTS

11 I understand that by pleading guilty or no contest in a non-capital case I
will waive the right to have the appellate Courts review the proceedings by way of direct
appeal, and I may seek review only by filing a petition for post-conviction relief pursuant
to Rule 32 in this Court and, if denied, a petition for review. 

12 I understand that by pleading guilty I will be giving up the following
13 constitutional rights: (a) The right to trial by jury; (b) The right to have a jury determine
14 beyond a reasonable doubt any fact used to impose sentence within the range set forth
15 above including aggravating circumstances in accordance with A.R.S. §§13-702.A.B.
16 and C., 13-703, 13-703.E-J, 13-704, 13-708, 13-901.03 and 13-709.03; (c) The right to
17 the assistance of an attorney at trial, and to be appointed an attorney, to be furnished free
18 of charge, if I cannot afford one; (d) The right to confront the witnesses against me and
19 to cross-examine them as to the truthfulness of their testimony; (e) The right to present
evidence on my own behalf and to have the State compel witnesses of my choosing to
appear and testify; (f) The right to remain silent and to be presumed innocent until
proven guilty beyond a reasonable doubt; (g) The right to a direct appeal. 

20 The defendant and Counsel each agree that there is no known reason at this
21 time to believe that a mental health examination or diagnostic evaluation pursuant to
22 Criminal Rule 26.5 is necessary or helpful. 

23 I agree to enter my plea as indicated above on the terms and conditions set
24 forth herein. 

1 I have read and understand the above. I have discussed the case and my
2 constitutional rights with my lawyer.

DDP

4 I have personally and voluntarily signed the signature line below to indicate
5 I read and approved all of the previous paragraphs in this agreement, both individually
and as a total agreement.

6 Defendant

7 Date

11-21-19

Douglas Packer, Defendant

8 I have discussed this case with my client in detail and advised him of his
9 constitutional rights and possible defenses. I believe that the plea and disposition set
10 forth herein are appropriate under the facts of this case. I concur in the entry of the plea
as indicated above and on the terms and conditions set forth herein.

11 Defense Counsel

12 Date

11/21/19

Jacob Amaru, Esq., Attorney for Defendant

13 I have reviewed this matter and concur that the plea and disposition set
14 forth herein are appropriate and are in the interests of justice.

15 Prosecutor

16 Date

11/21/19

Lori Ann Zucco, Chief Criminal Deputy County Attorney